



**CITY OF LODI
COUNCIL COMMUNICATION**

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AGENDA TITLE: Introduce Ordinance Amending Chapter 12.12 of the Lodi Municipal Code by Repealing and Re-enacting §12.12.420, Relating To Skate Park Regulations

MEETING DATE: December 15, 2004 City Council Meeting

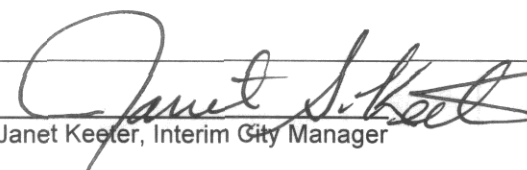
PREPARED BY: Janice D. Magdich, Deputy City Attorney

RECOMMENDED ACTION: That the City Council introduce Ordinance amending Chapter 12.12 of the Lodi Municipal Code by Repealing and Re-enacting §12.12.420, Relating To Skate Park Regulations

BACKGROUND INFORMATION: Kofu Skate Park opened in August, 2002, and operated until December, 2003, when the contract between Spohn Ranch, Inc. and the City of Lodi was terminated. At the direction of the Council, Parks and Recreation has been working to reopen the park as an unsupervised facility subject to obtaining liability insurance to which the City of Lodi would be endorsed. A requirement for the issuance of insurance coverage is that all skate park participants sign a waiver and release of liability form. To meet this requirement, the City Attorney's office has drafted, with the input and concurrence of Parks and Recreation, a skate park registration and waiver policy and procedure, along with a proposed registration and waiver and release of liability form. The proposals, copies of which are attached, are subject to review and approval by the insurance carrier. The City Attorney's office has written this ordinance to require that all skate park participants obtain a skate park identification card pursuant to policies and procedures established by Parks and Recreation, as described. The issuance of the identification card will be predicated on the participant having a signed waiver and release of liability form on file with the City. In addition, the ordinance adds two restrictions regarding the use of board wax and the presence of animals within the skate park.

FUNDING: Not Applicable


Janice D. Magdich
Deputy City Attorney

APPROVED: 
Janet Keeler, Interim City Manager

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY
OF LODI AMENDING CHAPTER 12.12 OF THE LODI
MUNICIPAL CODE BY REPEALING AND REENACTING
SECTION 12.12.420, RELATING TO SKATE PARK
REGULATIONS

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BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LODI AS FOLLOWS:

SECTION 1. Chapter 12.12 – “Parks” - is hereby amended by repealing and reenacting §12.12.420, relating skate park regulations to read as follows:

12.12.420 Skate Park Regulations.

The following regulations shall apply to the riding of skateboards, in-line skates, or roller skates at, or any other use of, any facility or park owned or operated by the City of Lodi, which has been designated a skate park:

A. Within the skate park, it shall be unlawful for any person to:

- (1) Ride, operate, or use a skateboard, roller skates, or in-line skates unless that person maintains in his/her possession a valid skate park identification card issued pursuant to policies and procedures established by the Parks and Recreation Department.
- (2) Ride, operate, or use a skateboard, roller skates, or in-line skates, unless that person is wearing a helmet designed for skateboarding and/or in-line skating use with a chin strap, elbow pads designed for skateboard and/or in-line skating use with plastic elbow caps, and knee pads designed for skateboard and/or in-line skating use with plastic knee caps, which equipment shall be in good repair at all times during use;
- (3) Ride, operate, utilize a skateboard, roller skates, or in-line skates unless such equipment is in good repair at all times during use;
- (4) Be on or use an individual apparatus within the skate park while another person is using it;
- (5) Place or utilize additional obstacles or other materials (including but not limited to ramps or jumps) within the skate park;
- (6) Use the skate park amenities when the surfaces of the amenities are wet or other conditions exist which would adversely affect the safety of skateboarders or skaters;
- (7) Use, operate, or possess any source of amplified music including but not limited to stereo's, boom boxes, and amplifiers.

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|------|---|-------------|
| (8) | Enter the skate park unless actively skateboarding or in-line skating in accordance with these regulations; | Deleted: 7 |
| (9) | Use, consume, or have within his or her custody or control, food or beverages, within the skate park; | Deleted: 8 |
| (10) | Use, consume, or have within his or her custody or control, alcohol, tobacco products, or illegal drugs within the skate park; | Deleted: 9 |
| (11) | Enter upon the skate park while under the influence of alcoholic beverages or illegal drugs; | Deleted: 10 |
| (12) | Use or possess glass containers, bottles, or other breakable glass products within the skate park; | Deleted: 11 |
| (13) | Use or engage in profanity, reckless and boisterous behavior (including, but not limited to, tandem riding, pushing, horseplay, and bullying) or any activity which could endanger the safety of persons using the skate park or spectators; | Deleted: 12 |
| (14) | Engage in graffiti, tagging, or other defacing of City property or the properties of others; | Deleted: 13 |
| (15) | Ride, operate, or utilize any device other than a skateboard, roller skates, or in-line skates (prohibited devices include, but are not limited to, bicycles, motor vehicles, motorized skateboards, and motorized skates) on the skate park; | Deleted: 14 |
| (16) | No person shall enter or remain in or upon the skate park premises: 1) while closed, as determined by the Parks and Recreation Department, or 2) between the hours of 9:00 P.M. and 10:00 A.M. | Deleted: 15 |
| (17) | Use or have within his or her custody or control, board wax, within the skate park. | |
| (18) | No person shall enter in or upon the skate park premises with any animal. | |

B. The skate park shall be posted with signs at the following locations:

- (1) At the entrance to the skate Park; and
- (2) On the fences of the skate park, facing the interior of the skate park, and in such places inside the park as determined by the City. The signs shall not be less than 2 feet by 3 feet in size and shall use black letters on a white background. The signs may, but shall not be required to, summarize the regulations governing the

use of the skate facility. Each sign shall contain, in letters not less than ½ inch in height, the following language:

WARNING

SKATEBOARDING AND IN-LINE SKATING ARE HAZARDOUS RECREATION ACTVIITIES. USE OF THIS FACILITY MAY RESULT IN SERIOUS INJURIES OR DEATH. THE CITY OF LODI DOES NOT ASSUME ANY RESPONSIBILITY FOR INJURIES OR DEATH. EACH PERSON ENTERING THE FACILITY ASSUMES ALL RISK OF INJURY OR DEATH. CALIFORNIA HEALTH AND SAFETY CODE §§115800 AND 115800.1.

A VALID CITY ISSUED SKATE PARK IDENTIFICATION CARD IS REQUIRED TO BE IN THE POSSESSION OF EACH PERSON USING THIS FACILITY. ANY PERSON FAILING TO COMPLY WITH THIS REQUIREMENT SHALL BE SUBJECT TO CITATIONS AND PENALTIES PURSUANT TO LODI MUNICIPAL CODE SECTION 1.08.010.

IT IS UNLAWFUL FOR ANY PERSON TO RIDE, OPERATE, OR UTILIZE A SKATEBOARD OR IN-LINE SKATES UNLESS THE PERSON IS WEARING A HELMET DESIGNED FOR SKATEBOARD USE AND/OR IN-LINE SKATING WITH A CHIN STRAP, ELBOW PADS DESIGNED FOR SKATEBOARD AND/OR IN-LINES SKATING USE WITH PLASTIC ELBOW CAPS AND KNEE PADS DESIGNED FOR SKATEBOARD AND/OR IN-LINE SKATING USE WITH PLASTIC KNEE CAPS, WHICH EQUIPMENT SHALL BE IN GOOD REPAIR AT ALL TIMES DURING USE. IT IS UNLAWFUL FOR ANY PERSON TO RIDE, OPERATE, OR UTILIZE ANY DEVICE OTHER THAN NON-MOTORIZED SKATE BOARDS AND NON-MOTORIZED SKATES. IT IS UNLAWFUL FOR ANY PERSON TO PROVIDE AMPLIFIED MUSIC WITHIN THE SKATE PARK. ANY PERSON FAILING TO COMPLY WITH THIS SECTION SHALL BE SUBJECT TO CITATIONS AND PENALTIES PURSUANT TO LODI MUNICIPAL CODE SECTION 1.08.010.

SECTION 2. All ordinances and parts of ordinances in conflict herewith are repealed insofar as such conflict may exist.

SECTION 3. No Mandatory Duty of Care. This ordinance is not intended to and shall not be construed or given effect in a manner which imposes upon the City, or any officer or employee thereof, a mandatory duty of care toward persons or property within the City or outside of the City so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

SECTION 4. Severability. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other

provisions or applications of the ordinance which can be given effect without the invalid provision or application. To this end, the provisions of this ordinance are severable. The City Council hereby declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof.

SECTION 5. This ordinance shall be published one time in the "Lodi News-Sentinel," a daily newspaper of general circulation printed and published in the City of Lodi and shall be in force and take effect thirty days from and after its passage and approval.

Approved this ____ day of _____, 2004

JOHN BECKMAN
Mayor

Attest:

| SUSAN J. BLACKSTON
City Clerk

Deleted: ¶

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State of California
County of San Joaquin, ss.

I, Susan J. Blackston, City Clerk of the City of Lodi, do hereby certify that Ordinance No. ____ was introduced at a regular meeting of the City Council of the City of Lodi held December 15, 2004, and was thereafter passed, adopted and ordered to print at a regular meeting of said Council held _____, 2005, by the following vote:

AYES: COUNCIL MEMBERS –
NOES: COUNCIL MEMBERS –
ABSENT: COUNCIL MEMBERS –
ABSTAIN: COUNCIL MEMBERS –

I further certify that Ordinance No. ____ was approved and signed by the Mayor on the date of its passage and the same has been published pursuant to law.

SUSAN J. BLACKSTON
City Clerk

Approved as to Form:

| D. STEPHEN SCHWABAUER
City Attorney

Deleted: ¶

PROPOSED

Lodi Skate Park Registration and Waiver Policy and Procedure

A fully executed registration and waiver, approved by an employee of the City of Lodi Parks and Recreation Department, is required to be on file with the City for all skateboarders, roller-skaters, and in-line skaters, who use any facility or park owned or operated by the City which has been designated as a skate park facility under the City's Municipal Code.

Waivers for participants under eighteen years of age must be signed by the participant's parent or legal guardian and witnessed by an employee of the City of Lodi Parks and Recreation Department. Alternatively, waivers for participants under eighteen years of age may be signed by the participant's parent or legal guardian before a notary public for the State of California.

A proposed registration and waiver form is attached.

A waiver is not valid unless signed by an employee of the City of Lodi Parks and Recreation Department acknowledging that the waiver has been reviewed and approved. Approved waivers will be filed and retained by the City of Lodi Parks and Recreation Department.

Waiver forms will be available at designated skate park facilities, at the City of Lodi Parks and Recreation Department office and on the City's website.

Following approval of a participant's registration and waiver, as set forth above, an identification number will be assigned and the participant will be issued a skate park photo identification card by the City of Lodi Parks and Recreation Department. In addition, participants will be given a copy of the City's Municipal Code provisions pertaining to skate parks. The identification card will acknowledge that the participant is approved to use the City's designated skate park facilities in conformance with the City of Lodi's Municipal Code (LMC) and has read and understands LMC sections 12.12.410 – 12.12.430. Participants will be required to have a valid skate park photo identification card available for inspection on the request of City employees or law enforcement officials whenever the participant uses the City's designated skate park facilities.

PROPOSED

ID No. _____



CITY OF LODI

Skate Park Registration And Waiver and Release of Liability Form

Participant's Name: _____ Date of Birth: _____

Address: _____ City, State, Zip Code: _____

Telephone No. _____

Emergency Contact: _____ Telephone No. _____

Waiver and Release of Liability

(Read Before Signing)

If participant is under 18, this waiver must also be signed by a parent or legal guardian.

In consideration for being allowed to use City of Lodi designated skate parks (as identified in the Lodi Municipal Code) or participate in any activities or events at City designated skate parks, I _____, the undersigned acknowledge, appreciate, and agree that:

1. The risk of injury from the activities involved in use of designated skate parks is significant, including the potential for permanent paralysis and death, and while particular rules, equipment, and personal discipline may reduce this risk, the risk of serious injury does exist; and
2. I KNOWINGLY AND FREELY ASSUME ALL SUCH RISKS, both known and unknown, EVEN IF ARISING FROM THE NEGLIGENCE OF THE RELEASEES (as defined in paragraph 4, below), or others, and assume full responsibility for my participation at designated skate parks; and
3. I willingly agree to comply with the stated and customary terms and conditions for participation in any activities or events at City designated skate parks. If however I observe any unusual significant hazard during my presence or participation, I will remove myself from participation and immediately bring such to the attention of the nearest official; and
4. I, for myself and behalf of my heirs, assigns, personal representatives and next of kin, HEREBY RELEASE AND HOLD HARMLESS the City of Lodi, its officers, officials, agents and employees, other skate park participants, sponsoring agencies, sponsors, advertisers, and if applicable, owners and lessors of premises used to conduct skate park activities or events ("Releasees"), WITH RESPECT TO ANY AND ALL INJURY, DISABILITY, DEATH, or loss or damage to person or property, WHETHER ARISING FROM THE NEGLIGENCE OF RELEASEES OR OTHERWISE.

I HAVE READ THIS RELEASE OF LIABILITY AND ASSUMPTION OF RISK AGREEMENT, AND LODI MUNICIPAL CODE SECTIONS 12.12.410 – 12.12.430, FULLY UNDERSTAND THEIR TERMS, UNDERSTAND THAT I HAVE GIVEN UP SUBSTANTIAL RIGHTS BY SIGNING THIS AGREEMENT, AND SIGN IT FREELY AND VOLUNTARILY WITHOUT ANY INDUCEMENT.

Signature _____ Age _____ Date Signed: _____

PROPOSED

ID No. _____

FOR PARTICIPANT'S OF MINORITY AGE
(UNDER AGE 18 AT THE TIME OF REGISTRATION)

This is to certify that I, _____, as parent or guardian with legal responsibility for the above-named participant, _____, do consent and agree to his/her release as provided herein of all of the Releasees (as defined in paragraph 4, herein), and for myself, my heirs, assigns, and next of kin, I release and agree to indemnify and hold harmless the Releasees from any and all liabilities incident to participant's use of designated skate parks (as identified in the Lodi Municipal Code) or involvement or participation in any activities or events at City designated skate parks, as provided herein, EVEN IF ARISING FROM THE NEGLIGENCE OF THE RELEASEES, to the fullest extent permitted by law.

Signature _____ Date Signed: _____

Emergency Telephone No. _____

Acknowledgment of Witness

This Waiver and Release of Liability Form, For Participants of Minority Age, was signed before the undersigned employee for the City of Lodi on this _____ day of _____, 20____.

Signature _____

Name and City Title _____

Notarial Acknowledgment

(Signatures Must Be Notarized Unless Witnessed by a Designated City Parks and Recreation Department Employee)

STATE OF CALIFORNIA

COUNTY OF SAN JOAQUIN

Subscribed and sworn to (or affirmed) before me on this _____ day of _____, 20____, by _____, personally known to me or proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.

(seal)

Signature _____

The Foregoing Waiver and Release of Liability Form has been reviewed and approved.

Staff Signature _____ Date _____

ORDINANCE NO. ____

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- (8) Enter the skate park unless actively skateboarding or in-line skating in accordance with these regulations;
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- (10) Use, consume, or have within his or her custody or control, alcohol, tobacco products, or illegal drugs within the skate park;
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- (13) Use or engage in profanity, reckless and boisterous behavior (including, but not limited to, tandem riding, pushing, horseplay, and bullying) or any activity which could endanger the safety of persons using the skate park or spectators;
- (14) Engage in graffiti, tagging, or other defacing of City property or the properties of others;
- (15) Ride, operate, or utilize any device other than a skateboard, roller skates, or in-line skates (prohibited devices include, but are not limited to, bicycles, motor vehicles, motorized skateboards, and motorized skates) on the skate park;
- (16) No person shall enter or remain in or upon the skate park premises: 1) while closed, as determined by the Parks and Recreation Department, or 2) between the hours of 9:00 P.M. and 10:00 A.M.
- (17) Use or have within his or her custody or control, board wax, within the skate park.
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B. The skate park shall be posted with signs at the following locations:

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SECTION 2. All ordinances and parts of ordinances in conflict herewith are repealed insofar as such conflict may exist.

SECTION 3. No Mandatory Duty of Care. This ordinance is not intended to and shall not be construed or given effect in a manner which imposes upon the City, or any officer or employee thereof, a mandatory duty of care toward persons or property within the City or outside of the City so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

SECTION 4. Severability. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid

provision or application. To this end, the provisions of this ordinance are severable. The City Council hereby declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof.

SECTION 5. This ordinance shall be published one time in the "Lodi News-Sentinel," a daily newspaper of general circulation printed and published in the City of Lodi and shall be in force and take effect thirty days from and after its passage and approval.

Approved this ____ day of _____, 2004

JOHN BECKMAN
Mayor

Attest:

SUSAN J. BLACKSTON
City Clerk

=====

State of California
County of San Joaquin, ss.

I, Susan J. Blackston, City Clerk of the City of Lodi, do hereby certify that Ordinance No. ____ was introduced at a regular meeting of the City Council of the City of Lodi held December 15, 2004, and was thereafter passed, adopted and ordered to print at a regular meeting of said Council held _____, 2005, by the following vote:

AYES: COUNCIL MEMBERS –
NOES; COUNCIL MEMBERS –
ABSENT: COUNCIL MEMBERS –
ABSTAIN: COUNCIL MEMBERS –

I further certify that Ordinance No. ____ was approved and signed by the Mayor on the date of its passage and the same has been published pursuant to law.

SUSAN J. BLACKSTON
City Clerk

Approved as to Form:


D. STEPHEN SCHWABAUER
City Attorney